



**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Chapter I**

**Docket ID FFIEC-2014-0001**

**FEDERAL RESERVE SYSTEM**

**12 CFR Chapter II**

**Docket No. R-1510**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Chapter III**

**Regulatory Publication and Review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of regulatory review; request for comments.

**SUMMARY:** The OCC, Board, and FDIC (we or Agencies) are conducting a review of the regulations we have issued in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions, as required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). In this notice, the Agencies are seeking public comment on regulations in the following categories: Banking Operations, Capital, and the Community Reinvestment Act.

**DATES:** Written comments must be received by no later than [insert date 90 days after date of publication in the Federal Register].

**ADDRESSES:** Comments may be submitted through the Federal eRulemaking Portal:

“Regulations.gov.” You can reach this portal through the Agencies’ EGRPRA Web site,

<http://egrpra.ffiec.gov>. On this site, click “Submit a Comment” and follow the instructions.

Alternatively, go to <http://www.regulations.gov>, enter “FFIEC-2014-0001” in the Search Box, click "Search," and click “Comment Now.” Those who wish to submit their comments by an alternate means may do so as indicated below.

**OCC:**

We encourage commenters to submit comments through the Federal eRulemaking Portal, Regulations.gov, in accordance with the previous paragraph. Alternatively, comments may be emailed to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov) or sent by mail to Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Mail Stop 9W-11, 400 7th Street, SW, Washington, D.C. 20219. Comments also may be faxed to (571) 465-4326 or hand delivered or sent by courier to 400 7th Street, SW, Washington, D.C. 20219. For comments submitted by any means other than Regulations.gov, you must include “OCC” as the agency name and “Docket ID FFIEC-2014-0001” in your comment.

In general, the OCC will enter all comments received into the docket and publish them without change on Regulations.gov. Comments received, including attachments and other supporting materials, as well as any business or personal information you provide, such as your name and

address, e-mail address, or phone number, are part of the public record and subject to public disclosure. Therefore, please do not include any information with your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may inspect and photocopy in person all comments received by the OCC at 400 7th Street, SW, Washington, D.C. 20219. For security reasons, the OCC requires that visitors make an appointment to inspect or photocopy comments. You may make an appointment by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening.

Board:

We encourage commenters to submit comments regarding the Board's regulations by any of the following methods:

- Agency Web site: <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>. Follow the instructions for submitting comments on the Agency Web site.
- Federal eRulemaking Portal, in accordance with the directions above.
- Email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include "EGRPRA" and Docket No. R-1510 in the subject line of the message.
- FAX: (202) 452-3819.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551

In general, the Board will enter all comments received into the docket and publish them without change on Regulations.gov. Comments received, including attachments and other supporting materials, as well as any business or personal information you provide, such as your name and address, e-mail address, or phone number, are part of the public record and subject to public disclosure. Therefore, please do not enclose any information with your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may inspect and photocopy in person all comments received by the Board at 20th and Constitution Avenue, NW, Washington, D.C. 20551. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may make an appointment by calling (202) 452-3000. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening.

#### FDIC:

We encourage commenters to submit comments through the Federal eRulemaking Portal, “Regulations.gov,” in accordance with the directions above. Alternatively, you may submit comments by any of the following methods:

- Agency Web site: [http:// www.fdic.gov/regulations/laws/federal](http://www.fdic.gov/regulations/laws/federal). Follow instructions for submitting comments on the Agency Web site.
- Email: [Comments@FDIC.gov](mailto:Comments@FDIC.gov). Include “EGRPRA” in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, D.C. 20429.
- Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EST).

We will post all comments received to <http://www.fdic.gov/regulations/laws/federal> without change, including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by calling (877) 275-3342.

**FOR FURTHER INFORMATION CONTACT:**

OCC: Karen McSweeney, Counsel (202) 649-6295; Heidi Thomas, Special Counsel (202) 649-6286; for persons who are deaf or hard of hearing, TTY (202) 649-5597.

Board: Walter McEwen, Senior Counsel (202) 452-3321; Claudia Von Pervieux, Counsel (202) 452-2552; Matthew Bornfreund, Attorney (202) 452-3818; for persons who are deaf or hard of hearing, TDD (202) 263-4869.

FDIC: Ruth R. Amberg, Assistant General Counsel (202) 898-3736; Ann Taylor, Supervisory Counsel (202) 898-3573; for persons who are deaf or hard of hearing, TTY (800) 925-4618.

**SUPPLEMENTARY INFORMATION:**

I. Introduction

Section 2222 of EGRPRA<sup>1</sup> requires that not less frequently than once every 10 years, the Federal

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<sup>1</sup> Public Law 104-208 (1996), codified at 12 U.S.C. 3311.

Financial Institutions Examination Council (FFIEC),<sup>2</sup> along with the Agencies,<sup>3</sup> conduct a review of their regulations to identify outdated or otherwise unnecessary requirements imposed on insured depository institutions.<sup>4</sup> The EGRPRA regulatory review provides an opportunity for the public and the Agencies to look at groups of related regulations and to identify opportunities for burden reduction. For example, the EGRPRA review may facilitate the identification of statutes and regulations that share similar goals or complementary methods where one or more Agencies could eliminate overlapping requirements. Alternatively, commenters may identify regulations or statutes that impose requirements that are no longer consistent with the way that business is conducted and that, therefore, the Agencies might eliminate.

The EGRPRA review also provides the Agencies and the public with an opportunity to consider how to reduce burden in general, but especially on community banks and other small, insured depository institutions or holding companies. We are keenly aware of the role that these institutions play in providing consumers and businesses across the nation with essential financial

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<sup>2</sup> The FFIEC is an interagency body empowered to prescribe uniform principles, standards, and report forms for the Federal examination of financial institutions and to make recommendations to promote uniformity in the supervision of financial institutions. The FFIEC does not issue regulations that impose burden on financial institutions and, therefore, we have not separately captioned the FFIEC in this notice.

<sup>3</sup> The FFIEC is comprised of the OCC, Board, FDIC, National Credit Union Administration (NCUA), Consumer Financial Protection Bureau (CFPB), and State Liaison Committee. Of these, only the OCC, Board, and FDIC are statutorily required to undertake the EGRPRA review. The NCUA elected to participate in the first EGRPRA review ten years ago, and the NCUA Board again has elected to participate in this review process. Consistent with its approach during the first EGRPRA review, NCUA will separately issue notices and requests for comment on its rules. The CFPB is required to review its significant rules and publish a report of its review no later than five years after they take effect. See 12 U.S.C. 5512(d). This process is separate from the EGRPRA process.

<sup>4</sup> Insured depository institutions also are subject to regulations that are not required to be reviewed under the EGRPRA process. Examples include rules for which rulemaking authority has transferred to the CFPB and anti-money laundering regulations issued by the Department of the Treasury's Financial Crimes Enforcement Network, among others.

services and access to credit, and we are concerned about the impact of regulatory burden on these smaller institutions. We understand that when an Agency issues a new regulation or amends a current regulation, smaller institutions may have to devote considerable resources to determine if and how the regulation will affect them. Through the public comment process, the EGRPRA review can help the Agencies identify and target regulatory changes to reduce unnecessary burden on these smaller institutions.

Burden reduction must be consistent with the Agencies' statutory mandates, many of which require the issuance of regulations. This includes ensuring the safety and soundness of insured depository institutions, their affiliates, and the financial system as a whole. EGRPRA recognizes that effective burden reduction may require legislative change. Accordingly, as part of this review, we specifically ask the public to comment on the relationships among burden reduction, regulatory requirements, and statutory mandates.

In addition, we note that the Agencies also consider the burden imposed each time we propose, adopt, or amend a rule. For example, under the Paperwork Reduction Act of 1995 and the Regulatory Flexibility Act, the Agencies assess each rulemaking with respect to the burdens the rule might impose. Furthermore, we invite the public to comment on every rule we propose, as required by the Administrative Procedure Act (APA).

## II. The EGRPRA Review Process

Taken together for purposes of EGRPRA, the Agencies' regulations covering insured depository

institutions encompass more than 100 subjects.<sup>5</sup> Consistent with the EGRPRA statute, the Agencies have grouped these regulations into the following 12 regulatory categories: Applications and Reporting; Banking Operations; Capital; Community Reinvestment Act; Consumer Protection;<sup>6</sup> Directors, Officers and Employees; International Operations; Money Laundering; Powers and Activities; Rules of Procedure; Safety and Soundness; and Securities. To determine these categories, we divided the regulations by type and sought to have no category be too large or broad.

To carry out the EGRPRA review, the Agencies plan to publish four Federal Register notices, each addressing one or more categories of rules. Each Federal Register notice will have a 90-day comment period. On June 4, 2014, the Agencies published the first such notice, seeking comment on three categories of rules: Applications and Reporting, Powers and Activities, and International Operations.<sup>7</sup> Today, we are publishing the second notice, addressing the Banking Operations, Capital, and the Community Reinvestment Act categories of regulations. We invite the public to identify outdated, otherwise unnecessary, or unduly burdensome regulatory requirements imposed on insured depository institutions and their holding companies in these three categories.

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<sup>5</sup> Consistent with EGRPRA's focus on reducing burden on insured depository institutions, the Agencies have not included their internal, organizational, or operational regulations in this review. These regulations impose minimal, if any, burden on insured depository institutions. Furthermore, we have not included in this review those rules that will go into effect during the EGRPRA review, new regulations that have only recently gone into effect, or rules that we have yet to fully implement. As previously noted, the Agencies were required to take burden into account in adopting these regulations.

<sup>6</sup> The Agencies are seeking comment only on those consumer protection regulations for which they retain rulemaking authority for insured depository institutions, and regulated holding companies following passage of section 1061 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 (2010) (Dodd-Frank Act), codified at 12 U.S.C. 5581(b).

<sup>7</sup> 79 FR 32172 (First Notice).



To assist the public's understanding of how we have organized the EGRPRA review, the Agencies have included a table in Section IV that lists the three categories of regulations for which we are requesting comments. On the table, the left column divides the categories into specific subject-matter areas. The headings at the top of the table identify the types of institutions affected by the regulations.

After comments have been received, the Agencies will review the comments and decide whether further action is appropriate with respect to the regulations. The Agencies will make this decision jointly in the case of rules that we have issued on an interagency basis. Similarly, we will undertake any rulemaking to amend or repeal those rules on an interagency basis. For rules issued by a single agency, the issuing agency will review the comments received and independently determine whether amendments to or repeal of its rules are appropriate. If so, that Agency will initiate a rulemaking to effect such change. In all cases, the Agencies will provide the public with an opportunity to comment on any proposed amendment to or repeal of a regulation, as required by the APA.

Further, as part of the EGRPRA review, the Agencies are holding a series of outreach meetings to provide an opportunity for bankers, consumer and community groups, and other interested persons to present their views directly to senior management and staff of the Agencies on any of the categories of regulations in the EGRPRA review.<sup>8</sup> More information about the outreach meetings can be found on the Agencies' EGRPRA Web site, <http://egrpra.ffiec.gov>.

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<sup>8</sup> See 79 FR 70474 (Nov. 26, 2014).

Finally, EGRPRA also requires the FFIEC or the Agencies to publish in the Federal Register a summary of the comments received, identifying significant issues raised and commenting on these issues. It also directs the Agencies to eliminate unnecessary regulations to the extent that such action is appropriate. The statute additionally requires the FFIEC to submit to Congress a report that summarizes any significant issues raised in the public comments and the relative merits of such issues. The report also must include an analysis of whether the Agencies are able to address the regulatory burdens associated with such issues or whether these burdens must be addressed by legislative action.

### III. Public Response to the First Notice

In response to the First Notice, the Agencies received approximately 40 comments from financial institutions, industry trade groups, consumer advocacy groups, and other members of the public. The Agencies will carefully consider those comments, including the issues raised and the suggestions made, and discuss them in the EGRPRA report to Congress and as part of any rulemaking to which they relate.

In addition to comments regarding the regulations contained in the First Notice, the Agencies also received comments about the EGRPRA Review Process. First, we received comments concerning which of the Agencies' rules are included in the review. As explained above, we have not included in this review those rules that will go into effect during the EGRPRA review, new regulations that have only recently gone into effect, or rules that we have yet to implement fully. The Agencies consider burden when adopting regulations. In addition, the Agencies,

financial institutions, and the public need the benefit of experience with these regulations in order to assess their effect on insured depository institutions.

We also received comments on which agencies participate in the EGRPRA review. As explained above, only the OCC, Board, and FDIC are statutorily required to undertake this review. Although other agencies may undertake regulatory reviews, those reviews are separate and distinct from this review. Finally, we received comments about whether the consumer regulations transferred to the CFPB by the Dodd-Frank Act are included in the EGRPRA review. The Agencies will seek comment only on those consumer regulations for which they retain rulemaking authority following passage of the Dodd-Frank Act, such as the fair housing advertising and recordkeeping, flood insurance, safeguarding customer information, and identity theft rules.<sup>9</sup>

#### IV. Request for Burden Reduction Comments on Regulations in the Banking Operations, Capital, and the Community Reinvestment Act Categories.

As noted previously, the Agencies are asking the public to comment on regulations in the Banking Operations, Capital, and the Community Reinvestment Act categories to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions and their regulated holding companies. Where possible, we ask commenters to cite to specific regulatory language or provisions. We also welcome suggested alternative provisions or language in support of a comment, where appropriate. Where implementation of a suggestion

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<sup>9</sup> If, during the EGRPRA review, the Agencies receive a comment about a regulation that is not subject to the EGRPRA review, we will forward that comment to the appropriate agency.

would require modification of a statute, we ask the commenter to identify the statute and the needed change, where possible.

The Agencies note that recently promulgated rules<sup>10</sup> amended, directly or by reference, several rules listed in the Capital category of the table published with the First Notice. The changes either went into effect in 2014 or will go into effect during 2015. Consistent with the above-described EGRPRA Review Process,<sup>11</sup> the Capital category in the table clarifies the specific regulations on which we are requesting comment. Where the table in the First Notice listed general subject-matter areas in the Capital category, the table in this notice provides citations to the specific sections that the Agencies are including in this review.

*Specific issues for commenters to consider.* The Agencies specifically invite comment on the following issues as they pertain to the Agencies' Banking Operations, Capital, and Community Reinvestment Act rules addressed in this notice.

- Need for statutory change. (1) Do any statutory requirements underlying the rules in these categories impose outdated or otherwise unnecessary regulatory requirements? (2) If so, please identify the statutes and indicate how they should be amended.

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<sup>10</sup> 78 FR 62017 (Oct. 11, 2013) (Agencies jointly); 79 FR 71630 (Dec. 3, 2014) (OCC); 79 FR 69365 (Nov. 21, 2014) (FDIC); 79 FR 64026 (Oct. 27, 2014) (Board). These regulations include capital adequacy, prompt corrective action, implementation of Basel III, standardized and risk-based approaches, market risk, and stress testing.

<sup>11</sup> See supra note 5, at 8.

- Need and purpose of the regulations. (1) Have there been changes in the financial services industry, consumer behavior, or other circumstances that cause any regulations in these categories to be outdated or otherwise unnecessary? (2) If so, please identify and indicate how they should be amended. (3) Do any of these regulations impose burdens not required by their underlying statutes? (4) If so, please identify the regulations and indicate how they should be amended.

- Overarching approaches/flexibility. (1) With respect to the regulations in these categories, could an Agency use a different approach to lessen the burden imposed by the regulations and achieve statutory intent? (2) Do any of these rules impose unnecessarily inflexible requirements? (3) If so, please identify the regulations and indicate how they should be amended.

- Effect on competition. (1) Do any of the regulations or underlying statutes create competitive disadvantages for one part of the financial services industry compared to another or for one type of insured depository institution compared to another? (2) If so, please identify the regulations and indicate how they should be amended.

- Reporting, recordkeeping and disclosure requirements. (1) Do any of the regulations or underlying statutes in these categories impose outdated or otherwise unnecessary reporting, recordkeeping, or disclosure requirements on insured depository institutions or their holding companies? (2) Could a financial institution fulfill any of these requirements electronically (if

they are not already permitted to do so) and experience burden reduction? (3) If so, please identify the regulations and indicate how they should be amended.

- Unique characteristics of a type of institution. (1) Do any of the regulations or underlying statutes in these categories impose requirements that are unwarranted by the unique characteristics of a particular type of insured depository institution or holding company? (2) If so, please identify the regulations and indicate how they should be amended.

- Clarity. (1) Are the regulations in these categories clear and easy to understand? (2) Are there specific regulations for which clarification is needed? (3) If so, please identify the regulations and indicate how they should be amended.

- Burden on community banks and other smaller, insured depository institutions. (1) Are there regulations or underlying statutes in these categories that impose outdated or otherwise unnecessary requirements on a substantial number of community banks or other smaller, insured depository institutions or holding companies? (2) Have the Agencies issued regulations pursuant to a common statute that, as applied by the Agencies, create redundancies or impose inconsistent requirements? (3) Should any of these regulations be amended or repealed in order to minimize this impact? (4) If so, please identify the regulations and indicate how they should be amended.

- Scope of rules. (1) Is the scope of each rule in these categories consistent with the intent of the underlying statute(s)? (2) Could we amend the scope of a rule to clarify its applicability or

reduce burden, while remaining faithful to statutory intent? (3) If so, please identify the regulations and indicate how they should be amended.

**Categories and Regulations Addressed in the Second Federal Register Notice**

<b>Subject</b>	<b>National Banks</b>	<b>State Member Banks</b>	<b>State Non-Member Banks</b>	<b>Federal Savings Associations</b>	<b>State Savings Associations</b>	<b>BHCs &amp; FHCs ----- SLHCs</b>
	<b>1. Banking Operations</b>					
	<b>OCC Regulations</b>					
Assessment of Fees	12 CFR Part 8			12 CFR Part 8		
Bank Operations	12 CFR Part 7, Subpart C					
	<b>Board Regulations</b>					
Availability of Funds and Collection of Checks	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	12 CFR Part 229 [Reg. CC]	
Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	12 CFR Part 210 [Reg. J]	
Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	12 CFR Part 219 [Reg. S]	

Subject	National Banks	State Member Banks	State Non-Member Banks	Federal Savings Associations	State Savings Associations	BHCs & FHCs ----- SLHCs
Reserve Requirements of Depository Institutions	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	12 CFR Part 204 [Reg. D]	
The Payment System Risk Reduction Policy	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	Federal Reserve Regulatory Service 9-1000	
<b>FDIC Regulations</b>						
Assessments	12 CFR Part 327	12 CFR Part 327	12 CFR Part 327	12 CFR Part 327	12 CFR Part 327	
<b>2. Capital</b>						
<b>Interagency Regulations</b>						
Prompt Corrective Action	12 CFR 6.3, 6.5, 6.6, 6.20-6.25	12 CFR 208.42, .44, .45; 12 CFR Part 263, Subpart H	12 CFR 324.402, 324.404, 324.405	12 CFR 6.3, 6.5, 6.6, 6.20-6.25	12 CFR 324.402, 324.404, 324.405	12 CFR 208.42, .44, .45; 12 CFR Part 263, Subpart H  -----
<b>OCC Regulations</b>						
National Bank Changes in Permanent Capital; Subordinated Debt as Capital	12 CFR 5.46-.47. <sup>12</sup>					
<b>3. Community Reinvestment Act</b>						

<sup>12</sup> On Dec. 18, 2014, the OCC issued an interim final rule with request for comment (IFR) amending 12 CFR 5.47. 79 FR 75417. The effective date of the IFR was Jan. 1, 2015. In an effort to provide the fullest opportunity for public comment, the OCC invites comment on the IFR through both the process outlined in the IFR and the EGRPRA Review Process outlined above.



<b>Subject</b>	<b>National Banks</b>	<b>State Member Banks</b>	<b>State Non- Member Banks</b>	<b>Federal Savings Associations</b>	<b>State Savings Associations</b>	<b>BHCs &amp; FHCs ----- SLHCs</b>
	<b>Interagency Regulations</b>					
Community Reinvestment Act (CRA)	12 CFR Part 25	12 CFR Part 228 [Reg. BB]	12 CFR Part 345	12 CFR Part 195	12 CFR Part 195	12 CFR 228 ----- ----- 12 CFR 228
Disclosure and Reporting of CRA-Related Agreements	12 CFR Part 35	12 CFR Part 207 [Reg. G]	12 CFR Part 346	12 CFR Part 35	12 CFR Part 390, Subpart H	12 CFR 207 ----- ----- 12 CFR 207

Dated: January 20, 2015

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Thomas J. Curry  
Comptroller of the Currency

By order of the Board of Governors of the Federal Reserve System, February 6, 2015.

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Robert DeV. Frierson  
Secretary of the Board.

Dated: January 21, 2015

By order of the Board of Directors

Federal Deposit Insurance Corporation

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Robert E. Feldman,  
Executive Secretary

BILLING CODES: 4810-33-P; 6210-01-P; 6714-01-P

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